

# Ecuador

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## Freedom of the Press

Media activity in Ecuador remained restricted in 2013, as President Rafael Correa and his administration continued to openly disparage and attack critical private outlets and journalists. The enactment of far-reaching new legislation that threatened freedom of expression added to the hostile environment.

While the constitution provides for freedoms of speech and the press, these rights are curtailed in practice. Libel and defamation are criminal offenses, and Correa has filed several criminal and civil cases against critical journalists in recent years. In April 2013 a judge imposed 18-month prison sentences on opposition assembly member Cléver Jiménez and journalist Fernando Villavicencio, and a reduced sentence of 6 months on activist Carlos Figueroa, for allegedly slandering Correa. The court also ordered a published apology to Correa and \$140,000 in compensation. Jiménez, Villavicencio, and Figueroa had accused Correa of committing a crime against humanity when he allegedly ordered the storming of a hospital during a 2010 police revolt. In December 2013, police officers raided Jiménez's and Villavicencio's houses and seized computers; several days later, Correa publicly admitted that he had ordered the action. Villavicencio had been investigating alleged government corruption in the oil industry.

The most high-profile libel case in recent years was Correa's \$80 million lawsuit against *El Universo* opinion editor and columnist Emilio Palacio and the newspaper's directors for an opinion piece in which Palacio criticized Correa's handling of the 2010 police uprising. In July 2011, a court ruled in favor of the president, but reduced the damages to \$40 million. Palacio and the directors of the paper were each sentenced to three years in prison, but Correa pardoned them in 2012.

Other political actors have also filed libel suits against media outlets and journalists. In January 2013 the ombudsman of the municipality of Joya de los Sachas demanded \$500,000 from a local television station over a report alleging that driving under the influence of alcohol was the reason for his detention following a traffic violation. In September, former judge Ivonne Boada Ortiz filed a claim against *La Verdad* newspaper of Esmeraldas Province and four of its directors, demanding \$30 million in damages after the paper published statements by Ecuador's interior minister accusing her of accepting bribes from a fugitive drug trafficker.

Changes to Ecuador's electoral law in late 2011 and early 2012 limited the media's ability to provide full campaign coverage ahead of the February 2013 general elections. Among other controversial changes, the revised law prohibited the media from directly or indirectly promoting any candidate or political position. The Constitutional Court upheld the ban in 2012 and determined that "indirect promotion" of a candidate may take two forms: granting unequal space or airtime to candidates, and not responding to a candidate's right of reply or requests for space or airtime in a timely fashion. According to the Committee to Protect Journalists (CPJ), journalists reported engaging in self-censorship in response to the new rules. On January 30, 2013, *El Universo* published a letter of complaint signed by Correa and his vice presidential candidate, Jorge Glas, demanding an apology for a cartoon the newspaper printed on January 21 that made references to alleged plagiarism in Glas's academic work. In February, the electoral authority barred the press from publishing images of candidates' campaign-closing events, stating that because the events would occur within 48 hours of the elections, they might improperly influence voters.

After years of failed attempts, in June the National Assembly approved a new Communications Law. The

legislation contained many controversial provisions, including the creation of two powerful telecommunications and media regulatory bodies—the Superintendency of Information and Communication and the Council for the Regulation and Development of Information and Communication—of questionable independence; the imposition of demanding obligations on journalists and all media regarding content, corrections, and the right of reply; and several vague clauses that could be used as justification to censor critical news content. In particular, the law codifies a constitutional right to receive information that is “verified, contrasted, precise, and contextualized.” Given the ambiguity of these requirements and the role of a politically subordinate judiciary and regulatory bodies in determining information’s “truthfulness,” the law increases the potential for censorship and self-censorship. The legislation introduces the concept of “media lynching”—defined as the repeated dissemination of information intended to harm a person’s reputation or credibility. It also restricts, with limited exceptions, the practice of journalism to those who possess certain professional qualifications. Finally, the law distributes broadcasting licenses equally between private, community, and public stations, but there are no guarantees of public broadcasters’ independence from government influence.

Opposition politicians and civil society members challenged the new law before the Constitutional Court, but a ruling was pending at year’s end, and the changes remained in force. Numerous regional and international bodies and press freedom advocacy groups have criticized the Communications Law for limiting freedoms of expression and the press. According to the UN special rapporteur on freedom of expression issues, the law violates Article 19 of the International Covenant on Civil and Political Rights and Article 13 of the American Convention on Human Rights. The Inter-American Commission on Human Rights (IACHR) special rapporteur for freedom of expression stated that the law provides the government with “exorbitant” powers to regulate and even control content, among other negative effects.

By year’s end, the new law had already been invoked by the government to demand public apologies and corrections. In August, at the request of Secretary of Communications Fernando Alvarado, *El Universo* published an apology for having printed microblog posts regarding Correa’s decision to exploit oil fields in the Yasuní forest reserve. In December, Alvarado prohibited television stations from broadcasting an advertisement by the opposition-controlled municipality of Guayaquil, arguing that it presented unsubstantiated claims of violence by the national police and the army.

In December the National Assembly approved a new criminal code, which includes provisions that could affect freedom of expression and become tools for the persecution of journalists and government rivals. Examples include limits on social protests that cause discord; broad privacy protections that proscribe the dissemination of unauthorized personal information, with no exception for issues of public interest; and the criminalization of creating “economic panic” by disseminating false information about the economy. The new code also maintains the libel and terrorism clauses that rights advocates have long criticized. The president was considering the bill, along with possible revisions, at year’s end.

Access to information is guaranteed in the constitution and by the 2004 Transparency and Access to Public Information Law, but a 2011 report found uneven compliance and confusion over the law on the part of government officials.

The National Communications Council (CONATEL), the broadcast licensing body, is considered to be highly dependent on the government, with four of seven members answering directly to the president, and thus often subject to government influence. In August 2013, CONATEL ordered the closure of Ecotel Radio in Loja Province, and in December police confiscated the station’s equipment. In October, CONATEL initiated proceedings to cancel 36 television and radio frequency assignments, citing violations of the Communications Law.

Privately owned stations are encouraged but not required to air Correa’s weekly television and radio broadcast, in which he regularly denounces critical journalists and media outlets. In September, during one

of these broadcasts, Correa tore up copies of the newspapers *El Comercio*, *La Hora*, and *Hoy*, alleging that they violated the Communications Law by failing to report on the government's campaign against the U.S.-based oil company Chevron. Private television and radio stations are obliged by law to disseminate official statements and programs—called *cadena*s—for up to one hour a day, often interrupting news programming. According to local press freedom group Fundamedios, Correa used 26 *cadena*s in 2013 to directly rebut criticisms that appeared in private outlets. These statements are also used extensively by the government to promote its agenda and occasionally target specific journalists.

Legal and administrative actions have resulted in rising self-censorship, which was most visible during the run-up to the 2013 elections. However, there were also cases of censorship unrelated to the elections. In September, a judge prohibited the circulation and dissemination of a book entitled *A Hidden Tragedy*, which discussed a possible massacre perpetrated by one Amazonian indigenous group against another in March. She stated that the printed invitation to the book launch contained a picture of a minor and therefore violated her rights. The ban was widely criticized, including by Correa, and it was soon lifted. In June, muckraking newsweekly *Vanguardia* closed, citing multiple incidents of state harassment in recent years as well as the censorship inducements contained in the Communications Law.

There are no reported restrictions on internet access, but the government monitors social-media content for alleged insults against Correa and other government officials. Under the Communications Law, media outlets are required to set up mechanisms for commenters to register their personal data or create systems to delete offensive comments; otherwise, outlets can be held legally responsible for insults or other perceived offenses contained in reader comments. The law also prohibits outlets from using information disseminated by anonymous sources via social media.

The Correa government has attempted to extend its assault on the press beyond Ecuador's borders. In December 2011, a working group of the Organization of American States (OAS) studying the operations of the IACHR presented a report that included recommendations, advocated by Ecuador and Venezuela, that would drastically reduce the effectiveness of the commission's special rapporteur for freedom of expression. However, these recommendations were rejected at the March 2013 OAS general assembly.

The frequency of intimidation, harassment, and attacks on journalists and media outlets continues to rise. As of mid-December 2013, Fundamedios had documented 174 incidents of verbal, physical, or legal harassment of the media by authorities and ordinary citizens during the year—the largest annual number since the group began counting in 2008. Fundamedios reported that 37 percent of the attacks were against private media outlets, and 29 percent were against individual journalists; the report also indicated that 82 attacks were perpetrated by government officials. In May, the digital content editor for the newspaper *El Comercio*, Martín Pallares, was threatened via Twitter after he criticized the government in an article. Pallares had also repeatedly been denounced during Correa's weekly broadcasts. In April, veteran investigative journalist Fausto Valdiviezo was murdered, apparently by a hit man, in Guayaquil; as of year's end, it had yet to be established whether the killing was connected to his work.

The majority of media outlets, both print and broadcast, are privately owned. However, the government controls—directly or indirectly—19 outlets, including six television and cable stations, five radio stations, three newspapers, four magazines, and a news agency. Twelve of the outlets under government control had been private until 2008, when the state took ownership to settle their parent company's bankruptcy. By law, the government was required to promptly divest itself of the companies, but after more than five years, it has not done so, and the new Communications Law does not establish a divestment deadline. Private media outlets not under government influence tend to have combative relationships with the administration. The internet was accessed by about 40 percent of the population in 2013, with most users living in urban areas.

The government is the country's largest advertiser and generally grants ad contracts to outlets that provide

favorable coverage. In July 2012, Correa directed his press secretary to withdraw public advertising from what he called “mercantilist” media outlets, including the newspapers *Hoy*, *El Comercio*, *El Universo*, and *La Hora*, and the television stations Teleamazonas and Ecuavisa. In June 2012, Correa prohibited his ministers from giving interviews to privately owned media; that December, a judge upheld Correa’s order after its legality was challenged.

An antimonopoly law passed in July 2011 threatens to further weaken private media organizations. It required individuals who owned a 6 percent or larger stake in a national media company or financial institution to divest assets they held in other companies by July 2012. The ban on simultaneously owning stock in the communications sector and other sectors was first introduced in a May 2011 referendum. In October 2011, the Quito Chamber of Commerce challenged the constitutionality of the law, but the suit made little progress. As the July 2012 deadline approached, there was confusion as to which media outlets were affected, since a definition of private national media had not been provided. In November 2012, the Office of the Superintendent of Companies issued a definition of national private print media, along with new deadline of early 2014 to transfer assets.

## **2014 Scores**

### **Press Status**

Not Free

### **Press Freedom Score**

**(0 = best, 100 = worst)**

62

### **Legal Environment**

**(0 = best, 30 = worst)**

22

### **Political Environment**

**(0 = best, 40 = worst)**

25

### **Economic Environment**

**(0 = best, 30 = worst)**

15